

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

HOMESITE INS. CO. OF THE	:	Civil No. 1:22-CV-1664
MIDWEST,	:	
	:	
Plaintiff	:	(Judge Conner)
	:	
v.	:	
	:	
OMAR EWIDEH, et al.,	:	(Magistrate Judge Carlson)
	:	
Defendants	:	

MEMORANDUM ORDER

THE BACKGROUND OF THIS ORDER IS AS FOLLOWS:

This case is a declaratory judgment action brought by Homesite Insurance Company of the Midwest (“Homesite”) against two of its insureds, Omar Ewideh and Nivertiti Geaith. (Doc. 1). In this lawsuit Homesite seeks a determination of whether it has fully discharged its legal responsibilities under its homeowner insurance policy with the defendants. According to Homesite the insureds’ home suffered water leak damage on two separate occasions, and experienced mold damage which was covered on Homesite’s policy. Homesite alleges that it paid the defendants more than \$294,000 as reimbursement on these claims pursuant to the terms of this homeowner policy. (Id., ¶¶ 1-56).

Notwithstanding these payments, Homesite alleges that the defendants have filed additional claims against its policy but has violated that policy by refusing to cooperate in the investigation of these additional claims; refusing to permit inspection of the property; failing to protect the property; and failing to properly document their claimed losses. (*Id.*, ¶¶ 57-111). Homesite also asserts that the defendants have made false statements and concealed material facts from the plaintiff in the course of its investigation of these claims in violation of the homeowner policy. (*Id.*, ¶¶ 112-24). Cast against the backdrop of these factual averments Homesite seeks a declaratory judgment that it has properly and adequately adjusted the defendants' claims under this homeowner insurance policy. (*Id.*, ¶¶ 125-29).

The parties are embroiled in a contentious course of litigation and discovery. As a result we are today presented with a spate of motions which we now address.

The plaintiff has filed a motion for entry of default, noting that the defendants have not yet answered the complaint. (Doc. 65). The defendants, in turn, have filed a motion for extension of time in which to answer the complaint. (Doc. 66). The motion for default (Doc. 65), is DENIED without prejudice, and the defendants motion for extension of time (Doc. 66) is GRANTED in part. The defendants shall file an answer on or before **May 19, 2023** or face renewal of the motion for default.

The defendants have filed a motion to dismiss, which alludes to matters and evidence outside the pleadings. (Doc. 67). Because the defendants ask us to consider matters outside the pleadings we are CONVERTING this motion to dismiss into a motion for summary judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure. This decision by the defendants to file a motion we deem to be a summary judgment motion has consequences for them in terms of their discovery duties. IT IS FURTHER ORDERED that the defendants are on notice that since they allude to matters outside the pleadings in their motion they must allow full and fair discovery of all of these matters. **The failure to do so may result in sanctions including exclusion of evidence or entry of adverse judgments.**

Finally, we are presented with competing discovery and sanctions motions. (Docs. 69, 71). These motions are GRANTED in part in that IT IS ORDERED that, unless the defendants provide complete discovery responses and the parties shall agree upon deposition scheduling, all parties must appear in person along with all relevant discovery materials at **10:00 a.m. on May 30, 2023** at the United States Courthouse, Harrisburg, Pennsylvania, where we will set aside a room and sequester them until they resolve these pending discovery matters. **The failure to do so may result in sanctions including exclusion of evidence or entry of adverse judgments.**

So ordered this 12th day of May 2023.

S/ Martin C. Carlson

Martin C. Carlson

United States Magistrate Judge